February 14 , 2005

Mr. Art Williams
Director
Louisville Metro Air Pollution Control District
850 Barret Avenue
Louisville, Kentucky 40204

RE: Brown-Forman Corporation
Comments to proposed STAR program

Dear Mr. Williams:

During the past several months, I have reviewed the originally proposed Toxic Air Contaminants (TACs) regulations as well as the revised regulations and attended several meetings regarding the Strategic Toxic Air Regulations (STAR) program. As a result, I am submitting these comments on behalf of Brown-Forman Corporation. Our comments focus on four main points: (1) including an exemption for processes or materials with de minimis emissions of TACs, (2) including an exemption for processes that already are regulated by the recent NESHAP for industrial and commercial boilers, (3) redefining the regulated companies to include only those that are major sources of TACs, and (4) ensuring that the dollars spent by regulated companies will result in meaningful and measurable improvements in air quality. Each of these four points will be examined more fully below.

1. Including an exemption for processes or materials with de minimis emissions of TACs

   In reviewing the West Louisville report, 18 contaminants were identified as being in significant concentration in the ambient air. However, the proposed regulations cover about 240 toxic air contaminants. The targeted companies must review operations to determine the potential emissions of each of these TACs. Moreover, these determinations must be based on all possible routes of emission – stack, building vent, and fugitive. For example, for our Louisville Production Operations, a facility with a FEDOOP, we use natural gas, one of the cleanest fuels available.. Despite these inconsequential emissions, the proposed regulations would require us to prepare complex models to determine the ambient maximum concentrations, establish risk levels, and compare these risk levels with

the regulatory Environmentally Acceptable Levels. While the revised proposed regulations have purported to establish some de minimis exemptions, initial calculations suggest that at least one TAC by-product of natural gas combustion (cadmium) could be emitted greater than the de minimis value proposed. Our initial calculations show a PTE for cadmium as 0.33 lbs/yr versus the de minimis of 0.27 lbs/yr. Clearly, for such insignificant emissions, the risk level has to be within an acceptable range yet the proposed regulations do not offer a real option to avoid this chore if the quantity of TAC used is below a threshold value. LMAPCD is requiring an extraordinary amount of effort without producing a scintilla of evidence that this effort will yield any positive results for air quality or human health in our community.

An alternative approach would be to two-fold – (1) to establish a separate list of exempt processes under the STAR program and create a mechanism for a facility to apply for and receive process-specific exemptions, in a timely manner and (2) to establish de minimis values that are reasonable.

A facility would be required to submit a description of the process and an estimate of the annual volume of VOC-containing material to be used in the process, along with a recent MSDS or other stack emissions information. If the TAC emission is less than a reasonable risk-based de minimis value (at least one ton per year), then that process would be exempt from the regulations.

2. Including an exemption for processes that already are regulated by the recent NESHAP for industrial and commercial boilers.

   Recently, the federal Environmental Protection Agency (EPA) promulgated a NESHAP for industrial and commercial boilers, commonly referred to as the boiler MACT. EPA spent millions of dollars and years in research and analysis to determine maximum achievable control technology for HAPs from boilers and other process heaters. The primary HAP from our distillery operation is HCl generated from the combustion of coal in the boiler. This same compound will be regulated by the STAR program as well. If LMAPCD includes process exemptions and/or de minimis levels as suggested above, the boiler emissions would be the only emissions from the distillery subject to the STAR program. This one emission point would then be subject to two regulations that have the same purpose but require very different information and data gathering activities. The boiler MACT, by using the surrogates, will achieve the same results as STAR without wasted time and money spent on reporting and modeling.

An alternative approach would be for the STAR program to exempt emissions points that submit timely notifications that they are subject to federal NESHAP or MACT requirements. These programs regulate 188 HAPs and will result in significant reductions in our community. Running a parallel program at the local level only serves to generate a lot of unnecessary data and stretch already limited resources at the LMAPCD for review and approval purposes.

3. Redefining the regulated companies to include only those that are major sources of TACs.

   The proposed regulation targets companies with Title V or FEDOOP operating permits. However, these companies are no more likely to emit the listed Toxic Air Contaminants than companies without such permits. Moreover, a company may have a Title V permit for the potential to emit a non-volatile compound. Such is the case for Blue Grass Cooperage Company (BGCC). BGCC maintains a Title V permit because of the potential to emit particulate matter (oak wood dust) above the threshold of 100 tons per year (tpy). Particulate Matter is not a TAC, yet, merely because of its status as a Title V permit holder, BGCC is required to comply with the proposed STAR program regulations. BGCC is not a major source for any volatile organic compounds, HAPs, or TAPs, yet this facility would be required to track, model, and evaluate contaminants that are emitted in the same quantities as many residences (e.g. spray adhesives, spray paints, etc). This sort of arbitrary regulatory applicability does not meet the LMAPCD's stated purpose of protecting human health and the environment.

   Another regulated facility, our Louisville Production Operations, has requested to change its status from FEDOOP to minor source on numerous occasions, beginning in 2003. The facility originally operated a coal fired boiler but that unit was taken out of service several years ago. Now, the facility maintains gas-fired boilers and the only other emission of note is ethanol from the processing and handling of beverage alcohol. As submitted to the LMAPCD, due to inherent limitations, the emissions of criteria pollutants are well below the major source threshold at less than 50tpy. Therefore, this facility should be deleted from the list of companies subject to the STAR program.

   A more appropriate approach would be for the LMAPCD to focus reduction efforts on those companies that are major sources of HAPs, TAPs, and/or TACs. LMAPCD has this emissions data as part of the annual air emission inventory program and can easily prepare a list of companies that are major sources of HAP and TAP emissions. TACS could be included for

CY2004 and all subsequent air emissions inventories, with additional companies becoming subject to the regulations if they are a major source of TACs. A major source should be defined as a facility that emits 10 tpy of any single compound or a combined total of 25 tpy. Since the LMAPCD has stated that these proposed regulations are the first step in a series of regulations designed to reduce TACs, the next step could then regulate those companies considered minor sources of HAPs, TAPs, and/or TACs. A minor source should be defined as a facility that emits 1 tpy of any single compound or a combined total of 5 tpy. By using a phased approach, the LMAPCD can review the data and complete analysis for the major sources and then generate meaningful and appropriate regulations for minor sources, if needed, instead of targeting companies based on a permit status that is not relevant.

4. Ensuring that the dollars spent by regulated companies will result in meaningful and measurable improvements in air quality.

   Based on conversations with and information from third-party experts, for the three Brown-Forman owned facilities that are subject to the proposed regulations, the initial cost for identifying all TAC sources, modeling, and establishing tracking mechanisms is estimated at $450,000 with on-going costs for recordkeeping and monitoring estimated at as much as twice the initial cost. These costs are very rough estimates based on the number of TACs (including those insignificant amounts contained in hand solutions, lab chemicals, inks, degreasers, etc.), the number of potential emissions points, the tremendous data collection effort as little to none of the modeling information is currently compiled, on-going TAC management program, tracking programs for TAC malfunction recording and emission calculations, and a host of other training, report, and recordkeeping activities.

   An alternative approach would be to concentrate those funds and efforts on meaningful health-based air quality initiatives such as focusing on those 18 contaminants as identified in the West Louisville report, requiring reductions from sources that are major sources of HAPs, allowing federal regulations to be fully implemented, and creating exemptions for processes and/or volumes of contaminants that cannot reasonably impact air quality. Implementing these alternatives will allow LMAPCD resources to be used more efficiently and effectively to more quickly review and approve permit applications for pollution control equipment, assist industry in identifying alternative materials and/or processes, and ensure compliance with existing permit and regulatory conditions.

Art, as you know, Brown-Forman is a committed and conscientious member of this community and is rooted in and dedicated to this community's ongoing vitality. As citizens of this community, we are deeply concerned about the environment and human health and we want to work with LMAPCD to effect positive outcomes. However, these regulations as currently drafted do not meet this goal. Instead, they detract from this goal by consuming resources to generate a lot of data that is effectively meaningless and non-actionable. Given the LMAPCD's limited resources, as evidenced by the substantial lag time for permit application review and approval, the reams of data generated by these new regulations will only serve to increase LMAPCD review time and thwart the ability of concerned corporation's, like Brown-Forman, to implement real, meaningful, improvements to air quality. We urge you to consider the alternatives suggested above and to rethink the impact of the STAR program in light of these comments.

Respectfully,

Cheryl-Lynne Patrick, PE, esq.

CC: Karen Cassidy/LMAPCD Board Chair
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